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Canada. Restrictive Trade  
Practices Commission  
Report  
no.27(1964)





*Canada*

RESTRICTIVE TRADE PRACTICES COMMISSION

# REPORT

Report on the Production, Distribution and Supply of  
Newspapers in the Sudbury-Copper Cliff Area



DEPARTMENT OF JUSTICE  
OTTAWA



ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1964

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RESTRICTIVE TRADE PRACTICES COMMISSION

REPORT ON THE PRODUCTION, DISTRIBUTION  
AND SUPPLY OF NEWSPAPERS IN  
THE SUDBURY - COPPER  
CLIFF AREA

COMBINES INVESTIGATION ACT

Ottawa

1963

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ROGER DUHAMEL, F.R.S.C.  
Queen's Printer and Controller of Stationery  
Ottawa, Canada  
1964



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# RESTRICTIVE TRADE PRACTICES COMMISSION

Chairman: Robert S. MacLellan

Members: Pierre Carignan Q.C. and W.D.R. Eldon



RESTRICTIVE TRADE PRACTICES COMMISSION

February 26, 1964.

Honourable Guy Favreau, P.C., Q.C., M.P.,  
Minister of Justice,  
Ottawa.

Sir:

I have the honour to transmit to you the French and English texts of a report by the Restrictive Trade Practices Commission.


This report follows from an inquiry carried out under the Combines Investigation Act and relates to the production, distribution and supply of newspapers in the Sudbury - Copper Cliff area of the Province of Ontario.

Yours faithfully,

(Sgd.) Robert S. MacLellan

Robert S. MacLellan  
Chairman

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## CHAPTER I

### INTRODUCTION

#### 1. Reference to the Commission

On September 14, 1962, the Director of Investigation and Research\* submitted to the Restrictive Trade Practices Commission\*\* a Statement of Evidence concerning the production, distribution and supply of newspapers in the Sudbury and Copper Cliff area of the province of Ontario. Under the Combines Investigation Act,\*\*\* the Commission after receiving a Statement of Evidence is required to hold a hearing to assess the evidence, and to report to the Minister of Justice.

#### 2. Director's Investigation

Pursuant to section 8 of the Act, the Director was required to institute the present inquiry to give effect to an application made in accordance with the provisions of

---

\* Hereinafter called the Director.

\*\* Hereinafter called the Commission.

\*\*\* Hereinafter called the Act.

section 7.\*

The Director had been authorized under section 10 of the Act to enter certain locations where evidence relative to the object of the investigation existed. From these premises he removed certain

---

\* Sections 7 and 8 read as follows:

"7. (1) Any six persons, Canadian citizens, resident in Canada, of the full age of twenty-one years, who are of the opinion that an offence under Part V has been or is about to be committed may apply to the Director for an inquiry into such matter.

(2) The application shall be accompanied by a statement in the form of a solemn or statutory declaration showing

- (a) the names and addresses of the applicants, and at their election the name and address of any one of their number, or of any attorney, solicitor or counsel, whom they may, for the purpose of receiving any communication to be made pursuant to this Act, have authorized to represent them;
- (b) the nature of the alleged offence and the names of the persons believed to be concerned therein and privy thereto; and
- (c) a concise statement of the evidence supporting their opinion that the offence has been or is about to be committed.

8. The Director shall

- (a) on application made under section 7,

. . .

cause an inquiry to be made into all such matters as he considers necessary to inquire into with the view of determining the facts."

documents, copied them and then returned the originals. To facilitate reference, these documents have been numbered from 1 to 34. The first seven originate from the offices of the Thomson Newspapers Limited. The others were found in the offices of the Sault to Sudbury Press Limited.

Two written returns were requested and obtained from the Thomson Newspapers Limited, pursuant to section 9 of the Act.

The Director was also empowered to question certain witnesses as provided in section 17. The persons hereafter named appeared during hearings held in Sudbury on May 24 and 25, 1962 before Mr. A.S. Whiteley, at that time a member of the Commission:

Mr. Robert J. Keir, publisher of the weekly The Sudbury Sun;

Mr. George W.R. McEwan, advertising manager of the weekly The Sudbury Sun;

Mr. James R. Meakes, managing editor of The Sudbury Star and manager of the magazine The Sudbury Scene;

Mr. Michael Panaman, manager of Canadian Tire Corporation Associate Store in Sudbury;

Mr. Lucien N. Marien, former manager of Simpsons-Sears Limited in Sudbury;

Mr. Robert K. Maine, at that time an employee of the weekly The Sudbury Sun.

In this report reference will be made to transcript of this testimony in the following way: (Evidence, p. . . ).

### 3. Allegation of Violation of the Act

The following allegation of a violation of the Act is contained in the summary of evidence submitted by the Director:

"71. It is my allegation that Sault to Sudbury Press Limited is a monopoly within the meaning of section 2(f) of the Combines Investigation Act in that the said Sault to Sudbury Press Limited being in complete or substantial control of the business of publishing English language

newspapers in the Sudbury - Copper Cliff area, has operated and is operating such business to the detriment of the public by following policies designed to or likely to prevent a competitive newspaper from becoming established in the area."

(Statement of Evidence, p. 31)

4. Hearing before the Commission

After studying the Statement of Evidence, the Commission held a hearing in Toronto on June 4, 1963. At this hearing Mr. F.N. MacLeod appeared for the Director of Investigation and Research, and Mr. J.J. Robinette, Q.C., Mr. John Tory Jr. and Mr. J.G. Coleman on behalf of Sault to Sudbury Press Limited and Thomson Newspapers Limited. Mr. James R. Meakes, managing editor of The Sudbury Star and manager of The Sudbury Scene, was the only person to testify. He introduced various exhibits in evidence which were numbered 21 to 38. Every reference to the transcript of this testimony and of the argument which followed it will be made as follows: (Hearing, p. . . .).

5. Information Concerning Sault to Sudbury  
Press Limited and Thomson  
Newspapers Limited

The only allegation of violation of the Act contained in the Statement of Evidence is directed against Sault to Sudbury Press Limited, a subsidiary of Thomson Newspapers Limited.

The subsidiary publishes a daily, The Sudbury Star, and two weeklies, The Elliott Lake Standard and The Sudbury Scene. The parent company publishes the following dailies:

Barrie Daily Examiner	Oakville Journal
Brampton Conservator	Orangeville Banner
Charlottetown Guardian-Patriot	Orillia Packet & Times
Chatham Daily News	Oshawa Times
Cornwall Standard-Freeholder	Pembroke Daily Observer
Galt Evening Reporter	Penticton Daily Herald
Georgetown Herald	Port Arthur News-Chronicle
Guelph Daily Mercury	Prince Albert Herald
Kamloops Daily Sentinel	Quebec Chronicle Telegraph
Kelowna Daily Courier	Sarnia Observer
Kirkland Lake Northern Daily News	Timmins Daily Press
Moose Jaw Times-Herald	Welland Evening Tribune
Nanaimo Free Press	Woodstock Sentinel Review

## CHAPTER II

### PRINCIPAL MEDIA OF INFORMATION AND OF ADVERTISING IN THE SUDBURY AND COPPER CLIFF AREA

#### 1. Population\*

In 1961, Sudbury had 80, 120 inhabitants and Copper Cliff 3, 600. The population of the Sudbury Metropolitan area was 110, 694.

Out of this total, 108, 534 persons, or about 98 per cent, spoke either English or French, 102, 851 spoke English, 37, 923 French, and 32, 240 spoke both of these languages.

In the metropolitan area, the number of occupied living units was 26, 255, and the number of families 25 002.

#### 2. Television and Radio

In Sudbury there are two television stations and three radio stations. One of the two television stations, and one of the three radio stations are French-speaking.

All these stations are in competition with the local newspapers in the field of advertising.

#### 3. The Press

At the beginning of December 1961, the only newspapers published in Sudbury were a daily, The Sudbury Star; a French-language weekly with low circulation, L'Ami du Peuple and a Finnish newspaper published three times a week. Among newspapers published elsewhere, the large Toronto papers and Le Droit of Ottawa have the largest circulation. The latter devotes two complete pages of a special edition to the Sudbury area. In so far as the press only is concerned, almost all advertising particularly

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\* Statistics contained in this section are taken from a publication by the Dominion Bureau of Statistics entitled: "1961 Census of Canada, Population and housing characteristics by census tracts, Sudbury".

directed at Sudbury is placed in The Sudbury Star. However, Le Droit and certain newspapers published in foreign languages provide slight competition.

Table 1 shows the average number of copies of newspapers sold for which statistics were obtainable. With regard to the English-language and French-language newspapers, the statistics on them relate to the metropolitan area for a period of twelve months ending either March 31 or September 30, 1962 and have been certified by the Audit Bureau of Circulations in Chicago. As to newspapers published in foreign languages, the figures were supplied on May 21, 1963 by New Canadian Publications, a company specializing in foreign-language advertising.

After December 1961, the situation changed. In less than two months, two local weeklies appeared: The Sudbury Scene on December 14, 1961 and The Sudbury Sun on January 6 1962. In addition, Mr. James R. Meakes, at that time managing editor of the daily The Sudbury Star and manager of the magazine The Sudbury Scene, told the hearing, June 4, 1963, that during the previous twelve months the Northern Ontario Register had become serious competition in Sudbury in the field of advertising and that there was talk of shortly putting out a French edition of this publication.

Table 1

Average Number of Copies of Various Newspapers Sold  
in the Sudbury Region

English-language newspapers:

Dailies

The Sudbury Star	27,636	
North Bay Nugget	81	
Ottawa Journal	63	
Toronto Star	2,386	
Toronto Globe & Mail	1,893	
Toronto Telegram	<u>838</u>	32,897

Weeklies

Toronto Star Weekly	6,889	<u>6,889</u>
		39,786

French-language newspapers:

Dailies

Ottawa Le Droit	1,118	
Montreal Le Devoir	30	
Montreal La Presse	<u>183</u>	1,331

Weeklies

L'Ami du Peuple	1,500*	
Montreal Le Dimanche Matin	55	
Montreal La Patrie du Dimanche	381	
Montreal Le Petit Journal	<u>349</u>	<u>2,285</u>
		<u>3,616</u>

Foreign-language newspapers:

Weeklies (15)	1,775	1,775
Monthlies (10)	<u>367</u>	<u>367</u>
		2,142

4. Flyers

Businessmen, individually or in groups, sometimes had distributed from door to door sheets of newsprint covered with advertisements and described as "throwaways" or "flyers". The evidence indicates that in the Sudbury area this advertising method was used, among others, by the business houses in the new Sudbury Shopping Centre and by the following companies: T. Eaton Co., Canadian Tire Corporation (Sudbury) Limited, and Simpsons-Sears.

In his testimony, Mr. James R. Meakes, managing editor of The Sudbury Star and manager of The Sudbury Scene, explained as follows the competition that these advertising flyers pose to the newspapers:

QUESTIONING BY MR. J.J. ROBINETTE, Q.C.:

"Q. Now let us turn on our minds for a few moments to the problem of advertising competition in the Sudbury district. You mentioned first of all, or I mentioned it, throwaways. Is that an area of competition for the daily newspaper and for the weekly?

---

\* Approximate figure provided by Mr. Robert J. Keir (Evidence, p. 23). Source: (Exhibits 23 and 25).

- A. Yes, it is, Mr. Robinette. A throwaway, as you appreciate perhaps, is simply a slang synonym for a flyer which in turn is a publication presentation essentially of advertising and it is distributed at your homes, gentlemen, as it is at everyone elses. Not always is it a flyer for a single advertiser. There are many cases, particularly with shopping centres, which is a somewhat new development, where the advertisers combine together to produce this publication.

To the extent that flyers exist, they compete for the normal advertising dollar because they perform the same function as we do. Also to the extent that flyers or throwaways are prepared by advertisers together in concert, they are very much competition for the normal newspaper advertising dollar. The best example I can give you of that is that we had been carrying a form of flyer, if you will, within the pages of the Sudbury Star for the Sudbury Shopping Centre. Subsequently it was their decision to abandon that and start their own small publication which was distributed on this free or throwaway basis.

- Q. So the Shopping Journal, after it was taken away from the Star in the fall of 1961, became a throwaway, a flyer as you call it?
- A. Yes.
- Q. For a period of time?
- A. Yes.
- Q. So there does exist real competition in the advertising field from flyers and throwaways?
- A. Oh yes. Not merely in Sudbury but across this country. It is a national situation. Very definitely is that the case."

(Hearing, pp. 43-44)

The role of flyers and the competition that they provide to the weeklies is described as follows in a letter dated December 7, 1962 and addressed by Mr. William Telfer, managing director of Canadian Weekly Newspapers Association, to Mr. W.E. McCartney, assistant advertising director of Thomson Newspapers Limited:

" . . .

The 'Ad Journal' or 'Shopper' in its purest form ('vilest' would be the term applied by our members, methinks) is much more common to B.C. and Alberta than any other province. Its function is to provide to local advertisers the opportunity to achieve the widest possible distribution of their merchandising message in print, at the lowest possible cost. The true Ad Journal makes no pretense of being a newspaper in the accepted meaning of the term. It carries no local news, and uses government releases and publicity handouts only where necessary to plug gaps between advertisements. Usually, blanket coverage of the town, and perhaps trading area, is claimed, and sometimes achieved through delivery by post.

. . .

Some regular and 'legitimate' weekly newspapers have felt the presence of these ad-journals in their community, while others seem to exist side by side with them, and have done for many years. The weekly newspaper publisher's claim that the ad-journal bleeds off a sizeable portion of the local advertising money is probably valid insofar as the effects of its presence on his weekly newspaper's lineage are concerned. But there is evidence to support the theory that if a weekly newspaper is doing a good job editorially, and is aggressive in its sales departments, the ad-journal is much less of a threat. Too, it does seem that with two or more competing media selling advertising in a community, the total advertising done is usually very much greater than in the case of a one-medium community.

So much for the pure ad-journal. While legitimate weekly and probably daily publishers would like to see them totally eliminated, there is little or no possibility of this, so long as the local businessman

considers them to be an attractive advertising medium. Perhaps the weekly publisher could do more to acquaint the community with the role of the weekly and the importance of its place in the community, and in this way encourage greater support of his paper by the advertiser. But he must also make his paper attractive to the advertiser in terms of readership and sales producing advertising. Where this is being done, advertisements are not really threatening the profitable operation of the local weekly.

. . . "

(Exhibit 28)

## CHAPTER III

### THE SUDBURY SUN

#### 1. Launching

The first steps towards the launching of the weekly The Sudbury Sun were taken in the month of October 1961 by Messrs. William A. Stevens, Gerald L. Barbeau, George R. Walker and Robert J. Keir. In the following December, these four persons formed a company and carried on business under the name of Northland Publishers. In January 1962, a corporation was set up under the name of Northland Publishers Limited.

The Syndicat d'Oeuvres Sociales Limitee, which publishes Le Droit, agreed to print the new newspaper in its Ottawa offices. Editing and distribution were entrusted to the Northern Information Service Company which specializes in advertising and was directed by Mr. Robert J. Keir.

Due to unforeseen difficulties, the first number of The Sudbury Sun appeared on January 6, 1962 and not, as planned, in December 1961.

#### 2. Administration

On the newstands, The Sudbury Sun sold at 10 cents a copy. The subscription price, which was originally \$3.00 per annum, was increased to \$4.50 per annum as of May 15, 1962.

The maximum advertising rate in The Sudbury Sun was first of all 17, then 15, and finally 13½ cents a line. This rate applied to single insertion of an announcement requiring limited space (transient rate). The original maximum of 17 cents a line was not established by taking competition into account. It was fixed to cover operational costs. In this matter, Mr. Robert J. Keir provided the following explanation:

"A. . . .

One of the biggest arguments we ran into as far as advertising was concerned was the rate. When we began operations we established a rate of 17 cents a line which figure we arrived at by anticipating the cost to the best of our ability and dividing the potential advertising and circulation revenues into that figure. We arrived at 17 cents a line which we thought would be fairly close to it."

(Evidence, pp. 9-10)

Twenty thousand copies of the three first numbers were distributed in Sudbury and Copper Cliff. Of this number, several hundreds went to subscribers, and the rest were distributed free of charge. In February and in March 1962, only one number per month was distributed free. Subsequently, a certain number of copies of each number were distributed free in portions of the region which varied from one issue to another. With regard to this, here is an extract from Mr. Robert J. Keir's testimony:

"A. . . .

We were offering a distribution equal to the distribution of the Sudbury Scene. They maintained on their front page they were distributing 20,000 copies in the City of Sudbury and the Town of Copper Cliff. We felt because of this that if we were going to compete for advertising dollars that we would probably have to do likewise, if not every week at least on occasion.

For the first three issues of the Sudbury Sun we distributed 20,000 copies also, but only in the City of Sudbury. We did not move into Copper Cliff with free distribution at that time. After three issues we dropped back to our regular subscribers that we were delivering to through the mail and on the newstands throughout the area.

Once a month, beginning in February, we distributed 20,000 again, feeling that this was necessary in order to keep up with the Scene. We found when we did that that we were able to solicit more advertising, that we were more successful than we were with just our regular mail subscriptions.

. . .

About seven weeks ago we hired a full-time man to take on the circulation work, to organize the carrier boys throughout the area. Since that time our circulation has steadily increased and we are settled on a distribution of approximately 8,500 a week. This was broken down into paid circulation and a sampling system that the Circulation Manager established in various parts of Sudbury.

This involved the carrier boys delivering to customers who previously had taken subscriptions on an annual basis, and to those who were taking subscriptions on a week to week basis from deliveries by the carrier boy, coupled with this sampling. The boy would deliver to those customers he had that were buying, either paying him directly or paying our office through their subscriptions, plus a few more that we would sample, and then follow up in subsequent weeks. We would do that to see if we could get them as paid subscribers of the newspaper.

This has been carrying on and we have been sampling but not the same places. Every week we move out into different areas. For example, one week we sampled Coniston, and then the following week we did it again. Then we left it to the carrier boys that the Circulation Manager set up there to follow it up to see if they could get them on a paid basis. We have been carrying on this process ever since in different sections of the city and different sections of the outlying areas."

(Evidence, pp. 9-11)

### 3. Causes of Disappearance

Over the past twenty-five years, according to Mr. James R. Meakes, there have been eight or nine attempts to launch a weekly in Sudbury. All have proven fruitless. The Sudbury Sun fared no better. Unlike The Sudbury Scene, it appeared after Christmas and, as a result, was unable to take advantage of the increase in activity that occurs in business before this holiday. From the beginning it operated at a loss. It ceased publication in November 1962.

Among the possible causes for this disappearance, we may mention competition offered by the other weekly, The Sudbury Scene, in the matter of advertising. On this point Mr. Robert J. Keir had this to say during his testimony:

"A. Well, if I may carry on as far as this difficulty in selling advertising is concerned on account of the Sudbury Scene. We ran into that at the time both of us came out. We found that a good many of the advertisers that we had solicited advertising from were advertising in the Sudbury Scene. These were a majority of all the larger advertisers in Sudbury.

. . . "

(Evidence, p. 8)

According to Mr. James R. Meakes, The Sudbury Sun was doomed to failure for various reasons. As the work of inexperienced individuals, it was a newspaper of poor quality, published at prohibitive cost and offering its customers advertising rates that were too high. On each of these points, the following are Mr. James R. Meakes' answers to questions put by Mr. J.J. Robinette, Q.C.:

(a) Inexperienced direction:

"Q. Without going into too much detail, I did suggest that part of the difficulty may have been inexperienced personnel at the Sun. Mr. Keir, had he any experience in producing a publication?

A. None whatsoever as far as I am aware. I think that is pretty well indicated in the evidence he gave himself. Mr. Keir did not even have editing experience. Mr. Keir was a capable reporter. I know because he worked for our organization. He was a quite capable reporter. He was an excellent fellow in many respects but this did not make him an editor. He never served as an editor with the Sudbury Star in any capacity. Furthermore he had not been an editor in prior employment elsewhere. He certainly had not been an editor in the true sense. This was his first effort.

Mr. McEwan, on the other hand, had been an advertising salesman with us whose health was not of the best. Subsequently we let him go. He had been with us about six and a half years. During his tenure with us he was strictly a salesman, an advertising salesman, of which we would have ordinarily ten or a dozen at a time. He had no management function, no management experience whatsoever, no business knowledge. He was not exposed at any time to the newspaper business beyond his function as a salesman in the advertising department.

The rest of the people concerned, those would be the two primary people, but the rest of his staff were reporters broadly who worked for him, you may recall, gentlemen, in Northland Information as publicists."

(Evidence, pp. 70-71)

(b) Excessive advertising costs:

"Q. Where was it being printed?

A. It was being printed in Ottawa by a commercial printing plant, the printing plant of Le Droit. Now, it follows of course that this was a commercial printing project of Le Droit, to this extent that they printed this publication for the Sun and charged for it. It follows therefore that an initial profit, what might be called the Le Droit's profit, had to be realized somewhere along the line.

The second thing I believe was brought out by Mr. Keir, and that is that the Sudbury Sun did not have a conventional newsgathering force, namely its own employees. It had an arrangement with another company of Mr. Keir's called the Northland Information, I believe, as set out in the evidence.

Q. Yes?

A. And it is generally known that Mr. Keir furnished the news to his Sudbury Sun newspaper from the

Northland publishers on a fee basis. I have no evidence to give you gentlemen but I am told reliably that this was 15%, which is a conventional figure in the trade, as many will know. Consequently, it might be said that there was a cost at least equivalent to 15% of the gross advertising revenue. This would be a profit to Northland. In other words, Mr. Keir first must find the profit for Le Droit; then he must find a profit, one must assume, for his Northland Information. And then he would, I suppose, have to find a profit for the Sun itself because he had private backers in this and as investors they would expect to make a profit, I'm sure.

In brief, gentlemen, I think his rates were high partly because he had to print his publication out of town with all the inherent difficulties, teletype, distribution, having to pay twice for the transportation of the newsprint. The newsprint, you will recall, under the convention which prevails in the newsprint industry, the newsprint is sold FOB point of purchase rather than point of origin. This means that newsprint is \$130 a ton in the City of Ottawa or in the City of Sudbury. Mr. Keir's publication naturally consumed newsprint. That newsprint originally cost \$130 laid down in the City of Ottawa. However, Mr. Keir had to then pay to bring that amount of newsprint to Sudbury. This was an additional cost."

(Hearing, pp. 62-64)

(c) Exorbitant advertising rates:

- "Q. Have you any comment to make on the Sun's rates? As I understand it, when the Sun started off they started off with a rate of 17 and a half cents?
- A. Well, I have comments, yes, to make. The Sun's rates were high. I would say they were so high as to be completely unrealistic, having regard to the competitive climate, if you will. It is clear that the Sudbury Sun must have recognized as a matter of obvious business for them to sell advertising in Sudbury, when it was currently being sold at

that time for as low as 8 and a half cents, in a paid publication, for them to ask 17 cents for an untried publication with a specific appeal to one class of people only, namely the labour unions, and to do this without a distribution organization and to do it furthermore free is beyond me.

. . .

. . . I think it was Mr. Keir, has said this sort of thing, that in effect 'My rates were established; I took my costs, I put a reasonable profit on top of that, and I said this is my rate.'[\*]

Q. Yes.

A. This is his rate. There is no question about that.

Q. What do you think of that method?

A. It is a damned high rate, if you will permit the expression.

Q. Yes.

A. I think it is unrealistic, uneconomic. It displays -- this is an opinion, of course -- it displays more optimism than business judgment, shall we say."

(Hearing, pp. 62-65)

(d) Publication with limited appeal:

"Q. . . . Generally speaking, what would you say about the Sun as to its having consumer appeal?

A. I will restrict these arguments then as to its appeal to the reader who might be inclined to buy it.

Q. Yes.

---

[\*] The part of Mr. Robert J. Keir's testimony to which Mr. James R. Meakes alludes is reproduced at the beginning of section 2, Chapter III.

- A. First of all, it was obviously a publication designed to appeal to a segment of the population, not all of it. This is an economic division as opposed to other factors. The news content of the paper was not in fact a news content, unfortunately. The news content is outdated in nearly every respect. We have done some studies which show that the majority of the articles, certainly all those which are designed to convey intelligence, that is to have pertinency of information, these articles almost invariably have appeared in the Sudbury Star, a daily newspaper, some days in advance, anywhere from five to ten days, and in one or two cases nearly a month before.

Now, when they appeared in this paper they appeared usually in a somewhat abbreviated version. Not always but usually in a somewhat abbreviated version. So that the coverage which had been in the Star somewhat earlier would have supplied in the first place much greater detail as to intelligence.

Now, some of the items appear to have been inserted more, in my opinion, to put it on the record for them than to deliver to a reader who has paid 10 cents, an item so he would say -- which is why we buy newspapers, I believe, gentlemen -- 'Why here's something we wish to know and to read about.'

I could go on at great length in an analysis of the contents of this publication, gentlemen. I have here, Mr. Robinette --

- Q. We will come back to some of the details.
- A. Yes. Suffice to say then perhaps at this moment that this paper was not a good newspaper with the accent on the word 'news'. It conveyed nothing new in the area of general news. Now, it did convey certain labour opinions but it did not convey what we might term the whole labour opinion in Sudbury. It was -- I believe the word is justified and some have used it -- it was in effect a propaganda organ for a certain class of worker,

namely those persons who subscribe to the Steelworkers' philosophy. You may recall, gentlemen, there has been an inter-union hassle in Sudbury going on for several years between two opposing groups, one called the Mine, Mill and Smelter Workers Union and the other called the Steelworkers Union.

This publication was designed in essence, I do believe, to present a Steelworkers' point of view. This is not merely my opinion. It was expressed by a gentleman called Mr. Gray. Mr. Gray was and still is president of the local trades and labour counsel [sic] and an avowed CLC advocate or supporter. He says as much in his column in one of these papers which is here if you gentlemen wish to see it.

I think there are certain conclusions that can be drawn, in summing up these comments, Mr. Robinette: that the paper consisted of old news, if you will, substantially, together with some labour news not perhaps calculated to win the support of the entire mass of labour union people in Sudbury. As a matter of fact, it was presented in such a fashion that it could not help but alienate half of the group. The reason I say half is this --

- Q. That is alienate those supporting the Mine, Mill and Smelter Workers?
- A. Yes. I use the figure half because as we know there was a vote held under the auspices of the Ontario government which showed quite conclusively that there are two groups of approximately equal strength.
- Q. Yes.
- A. The third point of course is that it does have some editorial opinion, which one might expect, and some advertising, and this may or may not be pertinent to news, but I think it is worth noting on this labour thing, that in the first eleven issues there were 24 full-page advertisements. I repeat in the first eleven issues. 21 of these were full-page advertisements for labour unions. Only three in eleven weeks were from merchants."

The Commission examined issues of both newspapers for the month of February 1962 and noted that The Sudbury Sun often repeated news which had already appeared in The Sudbury Star. On another point, the evidence of Mr. Meakes is also corroborated. In effect, a note which appeared on March 3 in The Sudbury Star seems to indicate that the weekly was at odds with a section of the workers in Sudbury. It reads as follows:

"A. . . . Those wishing to advertise in the Sudbury Sun are free to do so as long as they can meet the usual requirements. The International Union of Mine, Mill Smelter workers advertised in the Sudbury Sun January 6th they chose not to do so in subsequent editions. Advertisers do not dictate the editorial policy of this newspaper."

(Hearing, p. 211)

The complaints levelled by the International Union of Mine, Mill and Smelter Workers against the weekly are brought out in the following letter from Mr. F.E. DeVito, public relations director for Local 598 of the above-named Union:

"May 31, 1963.

To Whom It May Concern:

Re Sudbury Sun

I have been in charge of the publicity campaign for the International Union of Mine Mill and Smelter Workers in Sudbury since August, 1961.

I am presently employed as publicity director for the Local 598 of the same Union.

I have had a considerable amount of experience with the Sudbury Sun while they were publishing in that period.

In my opinion, the policy of the Sudbury Sun was not to be impartial, and in fact, I feel that their News stories were more than partial to the United Steelworkers of America Union, who have been conducting an attack against our Union for the past two years.

I am of the opinion, also, that the management of the Sudbury Sun depended on revenue from advertising placed in the paper by the Steel union.

I am sure that I can safely say that the bulk of the supporters of our Union share my opinion, and consider that they never got a fair representation in the Sudbury Sun.

Yours truly,

F. E. DeVito."

(Exhibit 38)

## CHAPTER IV

### THE SUDBURY SCENE

#### 1. Launching

In December 1961, the Sault to Sudbury Press Limited, which publishes The Sudbury Star, launched a weekly called The Sudbury Scene. It was a magazine of the type directed at women readers. The first number appeared on December 14, 1961. According to Mr. Meakes, at that time managing editor of the daily and manager of the weekly, this was the realization of a project which had been planned for several years. On this point his testimony is corroborated by a memorandum that he said he had drawn up himself about the end of October 1961 and which was seized by the Director's representative in the offices of Sault to Sudbury Press Limited. This memorandum contains the following passage:

"The decision to launch a morning paper on a weekly basis for the metropolitan area of Sudbury was made nearly five years' ago. . . . The date of publication awaited the completion and full operation of the new Sudbury Star plant so that full advantage of its new printing facilities could be employed in establishing the paper. . . . "

(Documents 17 and 18)

In the month of May 1961 the Sault to Sudbury Press Limited moved into new offices. About three years previously it had bought almost new printing equipment, particularly suited to the printing of a magazine and, to this end, equipped with a mechanical stapling press. Mr. Meakes, at the hearing, gave the following information on this equipment:

QUESTIONING BY MR. J. J. ROBINETTE, Q.C.:

"Q. It is not equipment that you use in the preparation of a daily?

A. No, certainly not. It is there. It was one of the very desirable things we found about this equipment,

was that stapling feature. And perhaps it might be referred to as being highly desirable from the point of view of its colour capacity. It is very simple to run colour with that equipment.

Q. Put shortly, that equipment you bought was the type of equipment which was suitable and could easily be used for the production of a weekly magazine type of publication?

A. Yes."

(Hearing, p.26)

QUESTIONING BY MR. D. ELDON, MEMBER OF  
THE COMMISSION:

"Q. Yes, but was that equipment that you referred to earlier used by the Sudbury Star as well as by the Scene?

A. I'm sorry. Perhaps I have misled you. It has not been used at all at the moment. The stitching equipment that I referred to, in describing the nature of the equipment itself, this stitching equipment is something we will require as the size of this publication grows. As you undoubtedly are aware, a relatively small tabloid does not require this but once you get into a large one, something like the Family Herald, if it is not stitched it falls apart in your hands. No; we have that there for the future, sir.

Q. Is there any equipment which is depreciated which is used only by the Scene and not by the Star?

A. No."

(Hearing, p.40)

It is apparent from the evidence that the decision to launch The Sudbury Scene at the end of the year 1961 was communicated to the staff of the Sault to Sudbury Press Limited on November 28. During his testimony, Mr. Meakes mentioned among the factors which influenced the date of launching of The Sudbury Scene, the appearance in the fall of that same year of a monthly "throwaway" called the "Shopping Centre Journal", apprehension about possible use of this means of advertising by merchants in the centre of the city, and also the desire to profit from the increased activity that retail business normally experiences immediately before Christmas. However the witness categorically denied that the appearance of The Sudbury Sun had influenced the date of launching of The Sudbury Scene. On this point, his testimony was as follows:

QUESTIONING BY MR. F. N. MacLEOD:

- "Q. Did the knowledge that the Sudbury Sun was going to be published influence you in any way in starting the Sudbury Scene?
- A. I think the proper answer to that is that it certainly did not deter us from the decision which we had made to start it.
- Q. Did it have anything to do with the timing?
- A. No, I don't think so, in the sense -- if I can first establish the direction of your question. If your question to me is, did we hear that the Sudbury Sun was to be published and then decide to start the Sudbury Scene, the answer is definitely not.
- Q. That is the effect of my question. How long before December 14, 1961 was the decision to publish the Sudbury Scene taken?
- A. Our first serious discussion took place in the latter part of December and the decision was made in October to begin this."

(Evidence, pp.90-91)

However two documents seem to indicate that The Sudbury Scene was launched at least partly with a view to reducing the chances of success of The Sudbury Sun. The first consists of a letter dated January 16, 1962 and addressed by Mr. Meakes to Mr. G.M. Brown, publisher of the daily Timmins Daily Press which belongs to Thomson Newspapers Limited. The following passage appears in it:

"Actually, we launched the Sudbury Scene as a device to lessen the prospect of success for a new, independent weekly which has just begun distribution in Sudbury. To the extent that this is its reison [sic] d'etre we are happy with it."

(Document 1)

The second document is a short memorandum dated February 10, 1962 and addressed by Mr. Meakes to Messrs. K.R. Thomson, St. Clair McCabe, and S.F. Chapman. The following is an extract from it:

"As you know, I began publication of a weekly free sheet (The Sudbury Scene) on December 14, 1961. Its primary purpose is to offset the introduction of a new weekly newspaper by well-financed private interests here, as well as the distribution of two new 'throwaways' . . . ." \*

According to Mr. Meakes, these two documents do not contradict his evidence to the effect that the launching of The Sudbury Scene was in no way related to that of The Sudbury Sun. Each of these letters employed a post hoc ergo propter hoc, type of logic; an explanation found after the event and for a specific purpose. In drafting the first, he had tried to dissuade his friend Brown from launching a weekly in Timmins, and wrote

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\* This document is appended to a written report obtained from Mr. St. Clair McCabe pursuant to section 9 of the Act.

the second to impress the recipients, particularly Mr. Chapman, Mr. Thomson's right-hand man in matters of finance. The following is an extract from Mr. Meakes' testimony at the hearing of June 4:

"A. . . . Brown was a long-time personal friend of mine. I certainly wasn't anxious to see him involve himself in a project which was foredoomed to failure in Timmins, a somewhat smaller community. He most certainly didn't have the equipment or the premises to do this sort of thing. Neither did he have the staff.

As I believe I did indicate here, there was a bit of a selfish reason perhaps in that later on in the process of carrying on with our distribution of the new newspaper through Northern Ontario, Timmins is one of the first communities - obvious communities - if not the first, into which we would begin to put this paper. It is one of the larger. If not, it is perhaps in the eastern end the community next in size to Sudbury. I didn't want to encounter my cousin, so to speak, or my twin in Timmins, which I would certainly do if we simply said, 'Gerry, this is what you should do in your area.' "

(Hearing, pp.22-23)

"A. . . . This letter [the second document mentioned above] is simply one drafted in a manner designed to appeal to a financial man. I think it is probably clear from the dates referred to, this happens to be written on February 10th, and it was attached to my financial report, it covers the first month of 1962, which was the first full month. Mr. Chapman, of course, to the best of my knowledge, himself had absolutely no knowledge of the Sudbury Scene. . . .

I think that would be it, Mr. Robinette; merely that this would be prepared in such a way as to have a proper impact for our financial officers."

(Hearing, p.29)

## 2. Method of Distribution

Unlike The Sudbury Sun, The Sudbury Scene was distributed free. Questioned by Mr. Robinette regarding the generality of this practice, Mr. Meakes had this to say:

- "Q. Now, some criticism, at least I deem it to be criticism, is contained in the Statement of Evidence of the fact that your publication, the Scene, was and has been on a free distribution basis. Now, is there anything unusual about that in Ontario?
- A. Nothing whatsoever. There are literally dozens of publications that are circulated free. I refer to one of them in Sudbury, in the Shopping Centre Journal. For those gentlemen who live in Toronto, you will know that there are half a dozen or more in the City of Toronto. For some of you who may live in Ottawa, you will know there are similar ones in that city. This goes on all over the Province.

For that matter, Mr. Robinette, if you were to phrase your question to ask whether it is common in Canada, coast to coast, you would get the same answer. And as to whether it is an international custom, the answer would be the same.

- Q. Is it a practical way of building up ultimately a distribution, of getting public acceptance?
- A. Oh yes, it is. It is perhaps the best way and the way which is followed by almost all new publications to get them into the hands of the public so that they can see what it is like, in effect at the publisher's expense, before having to invest themselves."

(Hearing, pp.77-78)

In support of Mr. Meakes' claims, Mr. Robinette mentioned the fact that the rules of the Canadian Weekly Newspapers Association were changed to allow weeklies which were distributed free to belong to the Association. This change in the regulations was explained as follows by Mr. William Telfer, managing director of the Association:

"As I say, the idea of providing free copies of a paper is not new. Many weeklies and dailies have done it for years, and I can remember the many times when as a daily newspaper ad manager I saw special editions sold on the added incentive of blanket coverage, with free distribution to support the paid list. So it is really a matter of degree, and it can be said with evidence to support, that free or paid circulation does not necessarily reflect the journalistic quality of a newspaper. On the other hand of course, paid circulation does indicate reader desire for the paper, and added assurance that the paper, having been paid for, will be read more thoroughly.

. . .

With the tremendous growth of the urban population, the paid circulation paper serving the suburban area, as well as the papers serving communities nearby the larger daily newspaper towns, found themselves in a completely new environment. Exploding housing developments brought an inrush of new families, and the attending shopping centres to serve them. In the older, more established suburban areas, population shifts became so great that the community newspaper was unable to keep up with the movement of its subscribers. As one publisher puts it, it is much less costly to blanket the community than to chase subscribers and at the same time try to sell the new resident, who often has not yet developed an interest in the community, a subscription to the paper. Added to this pressure on the publisher is the demand of the local merchant that his advertising get full distribution in the community. Such demands are of course one of the reasons for the growth of the ad-journal type of publication. So, in order to make the best of a difficult situation, many of the metropolitan and suburban

weekly publishers have decided to surrender the prestige and revenue of paid circulation in favour of blanket coverage through controlled distribution, and the added support of local advertisers. As far as I know, this policy has paid handsome dividends in each case, the editorial quality of the paper has been maintained, and often improved. The change in the CWNA by-laws was simply to recognize this new situation, and to make it possible for this type of weekly newspaper to retain its membership in the association so long as it continues to meet the journalistic standards required."

(Exhibit 28)

Among the documents seized by the Director, the earliest one which mentions The Sudbury Scene is a memorandum of November 28, 1961 from Mr. Meakes to Mr. R.W. Pearson, in charge of advertising for The Sudbury Star. In part, he said:

"In addition to the free distribution, which, after a reasonable period of time and without impairing its circulation value, will gradually be eliminated to establish a net paid sale -- there will be copies of Sudbury Scene available at 10¢ each at downtown newsstands and other dealers in the city area."

(Document 22)

Questioned on this subject at the hearing, Mr. Meakes replied as follows to questions put by Mr. Robinette:

"Q. What is your intention or what has been your intention with reference to the Scene. You told me earlier this morning, you rather laughed at my suggestion that the Scene might disappear?

A. Yes.

Q. What are your plans and intentions with reference to converting it to a paid distribution basis?

A. Well, we would be much further along with that project had it not been for the current state of affairs economically due to the hiatus caused by this current union hassle, which has been going on for some years. However, we have not let this period go to nought. We have done pilot studies during this period, and they are continuing. . . .

. . .

A. The conclusion which we draw from that is this, that when the timing is right, and the timing will be some reasonable period after a union contract is signed in Sudbury, assuming we will not be projected into a strike, and again you will know from your general knowledge that might be imminent; if that contract is signed we will simply place the Scene on a paid basis."

(Hearing, pp.78-80)

In a letter of July 25, 1963, Mr. J. A. Tory sent the Commission the following information on this matter:

" . . .

I thought you might be interested in the issue of the Sudbury Scene for July 18, 1963, three copies of which are enclosed. You will note that the entire front page of this issue is devoted to the matter of paid distribution and the abandonment of free distribution.

I have been advised by Mr. Meakes that an intensive telephone solicitation campaign is being carried on, supported by the endeavours of the individual carrier boys, directed towards a rapid conversion from free to paid circulation.

. . . "

### 3. Advertising Rates

In 1962, an ad in The Sudbury Scene cost at the most 12 cents a line and, on the average, a little more than 9 cents a line.

During his testimony, Mr. Robert J. Keir, editor in chief of The Sudbury Sun, claimed that the Sudbury Scene's rates were extremely low. On this point he stated:

" . . . Twelve cents a line for a distribution of 20,000 in my opinion is a very substantially low rate. If they were able to guarantee the advertiser a distribution of 20,000 at 12 cents a line I would suggest that that is a bargain, I would suggest that our rate of 13 1/2 cents per line for a distribution of between 8,000 or 9,000 per week is not out of line with common rates in other weekly publications distributed elsewhere. Some information I was able to obtain, from I believe a publication called Canadian Advertising, there were some listed there that show rates up around 13 1/2 cents and 15 cents, if I recall correctly, for a distribution in the neighbourhood of 8,000, 9,000 or 10,000. I would think that with a circulation of 20,000 a rate of 12 cents a line was certainly a very low rate."

(Evidence, pp.17-18)

Mr. Meakes maintained that The Sudbury Scene's rates, far from being excessively low, were high by comparison with those of the daily Sudbury Star. By way of explanation, he asserts that an advertisement always costs less in a newspaper intended for free distribution than in one for which the reader is forced to incur any expense. In this regard, the following are the most significant extracts from his testimony:

"Q. Now, Mr. Meakes, there is a reference in the evidence and a statement by the Director that the Scene's advertising rates were low or very low. What have you to say about that?

A. Well, sir, the Scene's rates were not low. They were not very low. In fact, they were higher than rates for advertising in the Sudbury Star. They

were rates established in my opinion for the worth of the advertising, having particular regard to the fact that the Scene was and is substantially a throwaway newspaper, that is distributed without charge.

Now, I believe it is well known that advertising in a paid publication is substantially and inherently of greater value than that advertising which goes into a free publication. The reason perhaps is obvious but if you will permit me to develop it I will.

Q. Yes.

A. The fact is that throwaways are simply those things left without invitation at your doorstep. As to whether or not you read them is a matter of some doubt. It is necessary in the case of a paid publication to have in it material which will be of sufficient interest to the person that he will make an outlay, in other words, pay for it. In other words, you ensure that the material in it is in fact read and therefore has greater value."

(Hearing, pp.54-55)

"Q. . . . I just want to go back for a moment to the Sudbury Star's advertising rate. I suppose any new publication coming into Sudbury, automatically they are going to compete with an existing established rate?

A. Inevitably this must be so, Mr. Robinette.

Q. No matter what it is?

A. These would be the terms of reference prevalent in the community at that time.

Q. What they are faced with in the way of existing competition is a transient rate which after October, 1961, at the Star was 20 cents for a paid circulation of 27,000?

A. This is so.

Q. And anybody looking at any other advertising rate, an advertising manager, he is going to ask what your circulation is, whether it is paid for or not, and he would naturally compare it with what he can get in the Star?

A. Obviously."

(Hearing, pp.71-72)

"A. The rates of The Sudbury Scene were not unreasonably low. These reflected an existing condition, namely the advertising rates of The Sudbury Star were certainly not low when one regards the fact that the circulation was free. The circulation of The Sudbury Star is paid.

Q. In other words, The Sudbury Star had a paid circulation of approximately thirty thousand?

A. That is right.

Q. And their transient rate was twenty cents a line. As against that, The Scene, with an unpaid circulation of twenty thousand, had a transient rate of twelve cents?

A. That is right.

Q. From a circulation standpoint, do those two figures jibe from the standpoint of fairness?

A. Yes, more than fair, in my opinion. The rates of The Sudbury Scene tend to be high and certainly not low.

Q. In relation to that point, yesterday, in answer to a question by the Chairman, the average rate in The Star, I think you said, was around --

A. Twelve cents.

Q. The average rate in The Scene would be?

A. Slightly in excess of nine cents.

Q. Nine cents odd. If you look at it from the standpoint of a comparison of the average rate?

- A. For The Scene, the rate, in fact, if fully paid, would tend to be fair and reasonable, certainly fair and reasonable and quite a bit on the high side when one considers the fact circulation was, in fact, free."

(Hearing, pp.186-187)

During the examination of witnesses at the investigatory stage, Mr. Michael Panaman, manager of Canadian Tire Corporation Associate Store in Sudbury, was questioned by the Director's representative on the principal means of information and advertising in the Sudbury district. It is obvious from his answers that in the matter of newspaper advertising, the customer greatly prefers the newspaper with paid circulation. The following is an extract from Mr. Panaman's testimony:

"Q. How often do you advertise in The Sudbury Star?

- A. Generally twice a week, sometimes three times a week; it depends on short weeks, long weeks and the time of the month.

Q. Have you placed any advertising in The Sudbury Scene?

- A. No, not at all.

Q. Have you placed any in The Sudbury Sun?

- A. Not as yet.

Q. Not as yet; do you contemplate placing advertising in either of those papers?

- A. Until they can prove they have enough paying subscribers to make it worth while for me to go into it.

Q. So now you do not feel it is worth while?

- A. The Sudbury Sun is working up to it. The Scene to me is just a handout until they can prove to me they have a certain amount of subscribers that really paid for the paper to read it. Just now it is a giveaway and I feel that a giveaway may be read and it may not be read.

If you pay 10 cents for a paper you want to look at it at night. You have invested some money in it."

(Evidence, pp.148-149)

#### 4. Financial Soundness

At the hearing, Mr. Meakes filed a detailed statement establishing additional revenues and costs effected in 1962 by the Sault to Sudbury Press Limited in connection with The Sudbury Scene. According to this statement, the additional revenues exceeded the additional costs by \$3,962.39. With regard to this document, Mr. Meakes gave the following information:

QUESTIONING BY MR. J. J. ROBINETTE, Q.C.:

"Q. Do I understand this, that, as far as the costs, if there are any overtime costs, they are charged to the Scene?

A. Oh yes.

Q. But where your composing room is slack anyway in the Sudbury Star and you have to pay them for six hours or eight hours, you are merely making use of the time they have been paid for?

A. Quite so. Both our press room and our composing room are unionized operations. Consequently we are not in any position to simply say, 'Well, we are quiet for two hours; go home.' We have a constant level of staff.

. . .

Q. What day of the week do you publish the Scene?

A. The Scene is published, in the technical sense of 'publish', on Thursday. It is printed on ---

Q. I mean what day is it prepared?

A. Tuesday.

Q. Is it a slack day?

A. The slackest day of the week. This is the day preceding the Wednesday closing and the staff, fortunately, are not very busy. The slack period is perhaps a relationship of eight to --- well, about 25% of the normal rate of production that day.

Q. Tell me, generally with reference to the composing room costs in the Sudbury Star, contrasting 1962 with 1961, were your costs in the composing room higher or lower in 1962?

A. Lower.

Q. Lower. Was that so even though there had been an hourly increase in the rate of wages?

A. Yes.

. . .

QUESTIONING BY MR. D. ELTON, MEMBER  
OF THE COMMISSION:

Q. As to salaries, how have you allocated some of the salary costs as to the Scene? For instance, your own salary?

A. There are no overhead charges of that sort.

Q. There are no overhead charges then of any kind?

A. That is correct, Doctor.

QUESTIONING BY MR. J. J. ROBINETTE, Q.C.:

Q. In other words, they are production costs only?

A. Looking at it as I would see this, Doctor, we have this organization in which we have an established overhead and this is going to be borne, as of course the depreciation will be, regardless. This equipment is surplus to the extent that it is productive capacity that is not fully used but, as you are of course very much aware, you have to have it all there, you

cannot have bits and pieces of it. Consequently this productive capacity is standing there.

We have a production staff. I have indicated that this staff is unionized. I think we all know what this implies. Salaried staff, on the other hand, are always there. . . .

. . .

QUESTIONING BY MR. D. ELDON, MEMBER OF THE COMMISSION:

Q. Is it correct to say then that this statement represents the extra revenues which your company receives as a result of operating the Scene and all the extra costs occasioned by producing that?

A. That is correct.

Q. This is a full and complete statement of those extra revenues and extra costs?

A. To the best of my knowledge, Doctor.

MR. ROBINETTE: That is actual out-of-pocket costs.

DR. ELDON: Yes."

(Hearing, pp.38-43)

Finally we should note that Mr. Meakes categorically stated that there was absolutely no question of discontinuing publication of The Sudbury Scene.

## CHAPTER V

### CONCLUSIONS

Section 19 of the Act requires the Commission to assess the effect on the public interest of the arrangements and practices revealed in the evidence.

Since the disappearance of The Sudbury Sun, The Sudbury Star is the only newspaper in Sudbury published in the English language. The Sault to Sudbury Press Limited thus has a monopoly in this field. There is nothing reprehensible in this in itself. This situation may well result, for example, from the fact that the market is too small for two newspapers to be profitable. What may be reprehensible is the deliberate pursuit of a monopoly position, or any detrimental use that might be made of it. The paramount question of the present inquiry is whether the Sault to Sudbury Press Limited, which was already publishing The Sudbury Star, launched The Sudbury Scene with a view to re-establishing a monopoly situation in its favour by eliminating The Sudbury Sun, the only other English-language newspaper published in the district.

The Commission has reviewed the evidence and material. In our opinion, it is doubtful that The Sudbury Sun would have fared much better without the competition of The Sudbury Scene. It is very unlikely that its paid circulation would have been higher, for, as conceded by the Director in the Statement of Evidence, the two weeklies were not aimed at the same clientele. The first was a paper devoted to union readers, while the second was a magazine for women. However The Sudbury Scene was to some extent able to attract advertising which otherwise might have gone to The Sudbury Sun. Without being a decisive factor, this competition in advertising probably hastened the disappearance of the latter.

Without doubt, the behaviour of the Sault to Sudbury Press Limited would be objectionable if it had had recourse to its monopolistic power to bring about the downfall of a competitor. But is The Sudbury Sun a competitor? If we are to accept the Statement of Evidence, it was not a competitor as a news medium,

for it was not directed at the same readers as The Sudbury Star or The Sudbury Scene; but it was certainly a competitor in the field of advertising. However, in newspaper advertising, the customer (the advertiser) is not buying a commodity: he is purchasing a service. Under the Act, the term "monopoly" refers only to the manufacture, production, transportation, purchase, supply, sale, storage of or dealing in an article or commodity. \* Thus the question arises whether the pursuit, even when deliberate, of a monopoly in the field of advertising in newspapers falls within the Act.

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\* The following are extracts from section 2 of the Act:

"2. In this Act,

(a) 'article' means an article or commodity that may be the subject of trade or commerce;

(aa) 'business' means the business of manufacturing, producing, transporting, purchasing, supplying, selling, storing or dealing in articles;

. . .

(f) 'monopoly' means a situation where one or more persons either substantially or completely control throughout Canada or any area thereof the class or species of business in which they are engaged and have operated such business or are likely to operate it to the detriment or against the interest of the public, whether consumers, producers or others, but a situation shall not be deemed a monopoly within the meaning of this paragraph by reason only of the exercise of any right or enjoyment of any interest derived under the Patent Act, or any other Act of the Parliament of Canada;

. . . "

Leaving this purely legal question aside, the evidence does not demonstrate that the Sault to Sudbury Press Limited did have recourse to reprehensible monopolistic practices. Thus it is not alleged by the Director and it has been categorically denied by Mr. Meakes, that the Sault to Sudbury Press Limited ever sought to force customers who wanted to advertise in The Sudbury Star to advertise also in The Sudbury Scene.

Nor has it been established that the launching of The Sudbury Scene was an expedient devised only to cause a competitor's downfall. Perhaps the news of the launching of the weekly The Sudbury Sun hastened the appearance of the magazine, but can we blame anyone who has decided to launch a new business for choosing to do so at the most propitious moment?

Lastly, it has not been shown that The Sudbury Scene operated at a loss for the purpose of eliminating a rival. It is true that the magazine was distributed free, but for a new periodical this is often the best means, not only of recruiting readers, but also of insuring the maximum revenue. A paid circulation that is too restricted may not be sufficiently attractive for the customer in the field of advertising. In such circumstances, it may be profitable to distribute the newspaper free, since that may result in considerably increased revenues from the sale of advertising. Finally, the Commission accepts the submission of the Sault to Sudbury Press Limited that the launching of The Sudbury Scene was conceived as a profitable business and enabled the Sault to Sudbury Press Limited to make better and more efficient use of its staff and equipment. The enterprise was sound from an economic standpoint in that the extra revenues that accrued from The Sudbury Scene exceeded the extra expenditures occasioned by it. In the circumstances, no account need be taken of the fixed expenditures which were being incurred in any case. Even during its first year, The Sudbury Scene had reached a stage where it made a slight contribution to the overhead expenses of the plant operated by Sault to Sudbury Press Limited.

For all these reasons, the Commission concludes that the Sault to Sudbury Press Limited must not be held responsible for the disappearance of the weekly The Sudbury Sun.

(Sgd.) Robert S. MacLellan  
Chairman

(Sgd.) Pierre Carignan  
Member

(Sgd.) Donald Eldon  
Member

Ottawa,  
October 28, 1963.









Canada. Revenue Board  
Practices Committee  
Report

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